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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,202	08/02/2001	Ronald Stevens	478.1010	6743
7590	11/19/2003		EXAMINER	
Clifford M Davidson Davidson Davidson & Kappel 485 Seventh Avenue 14th Floor New York, NY 10018			NGUYEN, THUKHANH T	
			ART UNIT	PAPER NUMBER
			1722	

DATE MAILED: 11/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/856,202	STEVENS ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Thu Khanh T. Nguyen	1722

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 September 2003.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-17 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-17 and 19-24 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10.

- 4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other:

## **DETAILED ACTION**

### ***Claim Objections***

1. Claim 20 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 19.

When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6, 11-12, 17, 19-22 are rejected under 35 U.S.C. 102(b) as being anticipated by the German reference (296 19 564).

The German reference teaches a tablet machine, comprising a punch (1) and a corresponding die (1'), wherein the punch includes a body portion (2), an embossing element (3), and a tip portion (7) having a non-stick coating of zirconia (see the English abstract).

4. Claims 1, 12-15, 17 and 19-24 are rejected under 35 U.S.C. 102(b) as being anticipated by the Japanese reference (61-293410).

The Japanese reference teaches powder molding apparatus, comprising a mold with a metal base (1) and a die (10) and a corresponding punch (7), wherein the die is made of stabilized zirconia and having an annular cylindrical shape (10, abstract).

5. Claims 1-6, 12-15, 17 and 19-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Eddy et al (3,732,056).

Eddy et al teaches a molding apparatus, comprising a pair of upper and lower punches (28, 30), and a tubular die (26) for compacting powder material, wherein the punches and the die are made of stabilized zirconia (col. 2, line 66 – col. 3, line 22).

6. Claims 1, 12, and 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Niiler et al (5,162,118).

Niiler et al teach an apparatus for compacting mixed powder material, comprising a steel mold plate (25) and a Zirconia liner located inside the mold cavity (col. 6, lines 16-25).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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8. Claims 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eddy et al (3,732,056) as applied to claims 1-6, 12-15, 17 and 19-24 above, and further in view of the second German reference (298 07 840).

Eddy et al disclose a powder forming press as described above, but fail to disclose that the shaped member having a recess region, a protrusion in the form of the alphabet letter.

The German reference ('840) discloses a tablet forming machine, comprising a tablet forming tool body (2) having an embossing surface with a recessed region (4") and a protrusion in the form of an alphabet letter (N) for producing an embossed in the forming tablet.

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Eddy et al by providing an embossing or recess on the mold surface as taught by the German reference ('840), because the embossing or the recess would form a stamping structure on the tablet surface to create a distinguish mark or for identification purposes.

In regard to claim 10, it is in the scope of a skilled artisan to configure and dimension the embossing means to have very small, microscopic, indentations to form configurations on the product surface such that it would be invisible to the naked eye, if so desired. The size or the shape of a mold structure will not render the apparatus claims patentable over the prior art of record. In *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984), the Federal Circuit held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform

differently than the prior art device, the claimed device was not patentably distinct from the prior art device.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Khanh T. Nguyen whose telephone number is 571-272-1136. The examiner can normally be reached on Monday- Friday, 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L Walker can be reached on 703-308-0457. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

TN

  
ROBERT DAVIS  
PRIMARY EXAMINER  
GROUP 1300-1700

11/17/03